



**UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
-----------------	-------------	----------------------	---------------------

09/578,849 05/26/00 MARTIN

M 031727.0001A

030082 HM22/1101  
HELLER EHRMAN WHITE & MCAULIFFE LLP  
SUITE 300  
101 ORCHARD RIDGE DR.  
GAITHERSBURG MD 20878-1917

EXAMINER

PRATS, F

ART UNIT

PAPER NUMBER

1651

DATE MAILED:

11/01/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks



UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office

Address: ASSISTANT COMMISSIONER FOR PATENTS

Washington, D.C. 20231

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
---------------------------------	-------------	---	---------------------

09/578,849

5-26-2000

Martin

031727.0001A

EXAMINER

PRATS

ART UNIT

PAPER

1651

10

DATE MAILED:

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

The reply filed on September 27, 2001, is not fully responsive to the prior Office action because of the following omission(s) or matter(s):

Applicant did not elect a single species of natural source from among those recited in claim 20, as required in item number 9 on pages 5-7 of the restriction requirement of July 27, 2001, nor did applicant elect a single species of volatile substance from among those recited in claim 18. See 37 CFR 1.111. Note specifically that claim 20 recites a plurality of natural sources from which applicant was required to select one for prosecution on the merits until a generic claim is held allowable. See item number 9 on pages 5-7 of the restriction requirement of July 27, 2001. Note further that claim 18 recites a plurality of volatile substances from which applicant was required to select one for prosecution on the merits until a generic claim is held allowable. Applicant did not elect the single species of either natural source or volatile substance, as required in the office action of July 27, 2001. The reply of September 27, 2001, is therefore clearly not responsive.

Note that a proper election would be, for example, Kava root as the natural source and ethanol as the volatile substance. Regarding election of species practice in Markush-type claims, applicant's attention is respectfully directed to MPEP § 803.02.


Since the above-mentioned reply appears to be bona fide, applicant is given ONE (1) MONTH or THIRTY (30) DAYS from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to F.C. Prats whose telephone number is (703) 308-3665.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Michael G. Wityshyn, can be reached on (703) 308-4743.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0196.

Communications applicant wishes to submit by FAX should be submitted to FAX # (703) 305-4242 or (703) 305-3014.

  
FRANCISCO PRATS  
PRIMARY EXAMINER